

Department of Workforce Development
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Scott Walker, Governor
Reginald J. Newson, Secretary

PUBLIC NOTICE

FINAL DRAFT RULE TO LEGISLATURE

The Wisconsin Department of Workforce Development announces that it is submitting the following rule for legislative committee review, pursuant to s. 227.19, Stats.:

CLEARINGHOUSE RULE #: 13-081

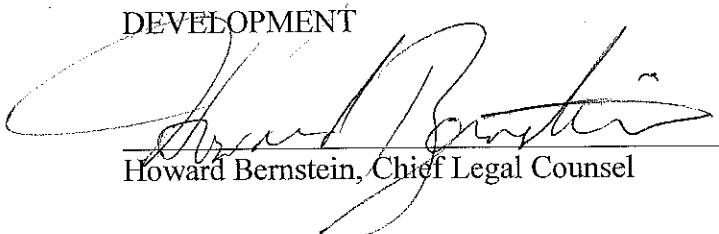
SUBJECT Unemployment Insurance Work Registration,
Work Search and Benefit Claiming Procedures

ADM. CODE REFERENCE: DWD 126, 127 and 129

APPROVED BY GOVERNOR: December 5, 2013

Dated this 5th day of December, 2013.

STATE OF WISCONSIN
DEPARTMENT OF WORKFORCE
DEVELOPMENT



Howard Bernstein, Chief Legal Counsel

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Scott Walker, Governor
Reginald J. Newson, Secretary

DATE: December 6, 2013

TO: The Honorable Mike Ellis
President, Wisconsin State Senate
Room 220 South, State Capitol
PO Box 7882
Madison, WI 53707

The Honorable Robin Vos
Speaker, Wisconsin State Assembly
Room 211 West, State Capitol
PO Box 8953
Madison, WI 53708

FROM: Reggie Newson, Secretary
Department of Workforce Development

A handwritten signature in black ink, appearing to read "Reggie Newson", written over the printed name and title.

SUBJECT: Unemployment Insurance Work Registration, Work Search and
Benefit Claiming Procedures, chs. DWD 126, 127 and 129
(Clearinghouse Rule # 13-081)

Introduction

The Department of Workforce Development (DWD) is transmitting this rule for legislative committee review, as provided in s. 227.19 (2) and (3), Stats. DWD will publish notice of this referral in the Wisconsin Administrative Register, as provided in s. 227.19 (2), Stats.

Rule Content

The rule modifies existing rules by simplifying and clarifying the intent of the administrative code provisions surrounding registration and work search requirements for an unemployment insurance claimant. Also the rule modification enables DWD to adapt work registration and work search requirements as advances in technology make changes possible and necessary. Moreover, the rule changes facilitate DWD's ability to audit the work search actions of unemployment insurance claimants as required by the newly enacted statutory provision s. 108.14 (20), Stats., that was created by 2013 Wisconsin Act 36. In addition, the existing administrative rules provide for waivers from the work search requirement. The rule amendments decrease and narrow the remaining waivers.

The rule changes will streamline the ability of DWD to ensure that individuals receiving unemployment insurance benefits are actively seeking work to become reemployed. The rule modification will also strengthen DWD's objective that those individuals receiving unemployment insurance are engaging in activities that constitute reasonable efforts to obtain employment.

The rule amendments clarify that DWD has the authority to request information from claimants to assist them in finding employment. More specifically, the amendments to ch. DWD 129 grant DWD the flexibility to implement improvements with respect to the claims filing procedures.

Public Hearings

DWD held three public hearings on the proposed rule on November 4, 2013 in Appleton, Madison, and Milwaukee. There were no attendees at the hearings.

DWD accepted written comments until November 8, 2013. One individual, Victor Forberger, commented in writing on the proposed rule.

DWD's Rule Changes in Response to Rules Clearinghouse, Public Hearings, and Unemployment Insurance Advisory Council Comments

- The Clearinghouse recommended a total of nine non-substantive changes to the rules and DWD incorporated all changes recommended by the Clearinghouse.
- A summary of the written public comment received and DWD's response to the comment is attached.
- DWD's Rule Changes in Response to the Unemployment Insurance Advisory Council (Council) were as follows:
 - DWD is enhancing its services to unemployment insurance claimants to assist them in finding employment. In order to use these services claimants will need to file a number of required unemployment insurance documents online. The proposed rules provide that DWD shall consider alternate forms of submittal of information by claimants on an individual basis when there is good cause for the claimant's inability to use a computer-based program. The Council recommended and DWD agreed to include a note within the rules that provides DWD shall:
 - Notify claimants of the fact that it will consider alternate methods for claimants to provide the information if there is good cause for claimants' inability to use a computer-based program.

- Provide claimants with information about how to request assistance in providing required information.
- The Council recommended and DWD agreed to include in the handbook for claimants examples of reasonable work search actions and information regarding how claimants can contact DWD with questions related to work search actions.
- The administrative rules waive the requirement that a claimant search for work if there is a reasonable expectation that the claimant will be returning to employment with the claimant's former employer. The proposed amendments narrowed this exception with respect to an expected return to work date and provided that DWD should verify with the employer the claimant's employment status. The Council recommended and DWD agreed that if the employer does not verify the claimant's employment status, DWD may consider additional evidence concerning whether the claimant has a reasonable expectation of returning to work with the employer.
- 2013 Wisconsin Act 20 required DWD to promulgate rules related to directing claimants to engage in added work search efforts. DWD's original proposed language, provided that claimants had to be unemployed for four or more consecutive weeks before being required to engage in additional work search actions. The Council recommended and DWD agreed to change this requirement to provide that claimants must be unemployed for seven or more consecutive weeks before additional work search actions may be required.

Small Business Regulatory Review Board Report

The Small Business Regulatory Review Board did not issue a report on this rule.

Summary of, and comparison with, existing or proposed federal statutes and regulations

Unemployment insurance was initiated on a national basis in the United States as Title III and Title IX of the Social Security Act of 1935 and is a Federal-State coordinated program. Each state administers its own program within national guidelines promulgated under federal law. As a condition of a state receiving its unemployment compensation administrative grant, 42 USC 503 (a) provides that the Secretary of Labor must find that the law of the state includes certain requirements. Specifically, 42 USC 503 (a) (12) provides that state laws must have as a condition of eligibility for unemployment insurance that claimants must be able to work, available to work, and actively seeking work. Moreover, 42 USC 503 (a) (10) provides that state laws require, as a condition of eligibility for benefits for any week, any claimant that has been referred to reemployment services or similar services, has completed such services or there is justifiable cause for the claimant's failure to participate in such services.

Comparison with rules in adjacent states

As the Department of Labor's Comparison of State UI Laws states: "[i]n addition to registration for work at a local employment office, all states... , whether by law or practice, require that a worker be actively seeking work or making a reasonable effort to obtain work." The amendments to the rules bring Wisconsin's rules more in line with neighboring states' initiatives to facilitate unemployment insurance claimants' ability to find employment.

Benefit Claiming Procedure

Illinois	Each claimant shall file his or her claim by telephone. The only exception is if the claimant files his or her claim by mail. To file a claim by mail the claimant must: speak neither English nor Spanish; be hearing impaired; or have no reasonable access to a touch-tone telephone. (56 Il. Adm. Code 2720.112)
Indiana	<p>A claimant must report on their job search on a weekly basis via submission of the online claim form, or in any other manner as required by the department. (646 IN 5-9-4 Administrative Code)</p> <p>A claimant is not eligible for benefits in any week unless he or she has filed a claim for benefits and reports to the department each week that he or she continues to meet all eligibility requirements. A claimant's claim for benefits, and weekly report to the department, must be filed in the form and manner prescribed by the department. (646 IN 5-9-2 Administrative Code)</p>
Iowa	An individual may file an initial claim for unemployment benefits by telephone, in person or other means prescribed by the department or may call the service center during regular business hours. Claims filed in accordance with this rule shall be deemed filed as of Sunday of the week in which the claim is filed, but must register for work at a workforce development center (IA 871-24.2 (96) Administrative Code)
Michigan	<p>Claims for benefits shall be made pursuant to regulations prescribed by the unemployment agency. The unemployment agency shall designate representatives who shall promptly examine claims and make a determination on the facts. (M.C.L.A. 421.32)</p> <p>An individual shall file a new, additional, or reopened claim or shall report to file a continued claim as directed by the agency. (Mich. Admin. Code R. 421.210 (3))</p>

Minnesota	<p>An application for unemployment benefits may be filed in person, by mail, or by electronic transmission as the unemployment insurance agency may require. (M.S.A. s. 268.07 Statutes Annotated)</p> <p>The unemployment insurance agency shall notify the claimant of the method that should be used to make ongoing claims for benefits. The first method is through electronic transmission which means the claims may be filed by electronic mail address, telephone number, or Internet address prescribed by the commissioner for that claimant. The other method that the unemployment insurance agency may designate for the claimant is for the claim to be filed by mail. (M.S.A. s. 268.0865 Statutes Annotated)</p>
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Work Search Requirements

Illinois	<p>Unless otherwise instructed, a claimant must establish that he or she is able to work, available for work and actively seeking work during each week for which he or she is claiming benefits. The claimant must show that he or she is conducting a thorough, active and reasonable search for appropriate work on his or her own by keeping records of what he or she is doing to find work. (56 Il. Adm. Code 2865.100)</p>
Indiana	<p>To establish an effort to secure full-time work, a claimant is required to search for three (3) positions in each week for which benefits are claimed. (646 IN 5-9-3 Administrative Code)</p>
Iowa	<p>The Iowa law specifies that an individual must earnestly and actively seek work. This is interpreted to mean that a registration for work at a workforce development center or state employment service office in itself does not meet the requirements of the law. Nor is it interpreted to mean that every individual must make a fixed number of employer contacts each week to establish eligibility. The number of contacts that an individual must make is dependent upon the condition of the local labor market, the duration of benefit payments, a change in claimant characteristics, job prospects in the community, and such other factors as the department deems relevant. (IA 871-24.22 (96) f. Administrative Code)</p>
Michigan	<p>The claimant has registered for work and has continued to report in accordance with unemployment agency rules and is actively engaged in seeking work. Except for a period of disqualification, the requirement that the claimant shall seek work may be waived by the unemployment agency if it finds that suitable work is unavailable both in the locality where the individual resides and in those localities in which the individual has earned wages during or after the base period. An otherwise eligible individual shall not be ineligible for benefits because he or she is participating in training with the approval of the unemployment agency. (M.C.L.A. 421.28)</p>

Minnesota	<p>An applicant may be eligible to receive unemployment benefits for any week if the applicant was actively seeking suitable employment. "Actively seeking suitable employment" means those reasonable, diligent efforts an individual in similar circumstances would make if genuinely interested in obtaining suitable employment under the existing conditions in the labor market area. Limiting the search to positions that are not available or are above the applicant's training, experience, and qualifications is not "actively seeking suitable employment." (M.S.A. s. 268.085 Statutes Annotated)</p>
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Registration for Work Requirements

Illinois	<ul style="list-style-type: none"> • A claimant must register with the Illinois Employment Service unless otherwise instructed by the local office. There are ten circumstances in which a claimant will not be required to register with the Illinois Employment Service. (56 IL. Adm. Code 2865.100) • An unemployed individual shall be eligible to receive benefits with respect to any week only if he has registered for work at and thereafter, continues to report at an employment office in accordance with such regulations as may be prescribed. (820 ILCS 405/500 Compiled Statutes)
Indiana	<ul style="list-style-type: none"> • Registration is required and accomplished through enrollment in the Indiana Career Connect (ICC) Database. (646 IN 5-9-1 Administrative Code) • Claimant must register for work within ten (10) days of filing an initial claim for benefits. To enhance the registration, claimants should complete a resume and post online. (646 IN 5-9-1 Administrative Code) • An unemployed individual is eligible to receive benefits with respect to any week if the individual has registered for work at an employment office or branch thereof or other agency designated by the commissioner within the time limits that the department adopts by rule. (IC 22-4-14-2 Code)
Iowa	<ul style="list-style-type: none"> • Unemployed persons must report in person to the nearest workforce development center and register for work. (IA 871-24.2 (96) Administrative Code) • An unemployed individual is eligible to receive benefits with respect to any week only if the department finds that the individual has registered for work at, and thereafter, continues to report to an employment office in accordance with regulations as the department prescribes. (I.C.A. s. 96.4 Code)
Michigan	<ul style="list-style-type: none"> • A claimant shall register for work as instructed by the agency and fully and accurately supply information as to the claimant's past work experience and training and other personal data as may be necessary to assure that the claimant is considered for referral to any available suitable work. (Mich. Admin. Code R. 421.208)

	<ul style="list-style-type: none">Unemployed workers must register and create a profile on www.mitalenet.org and report in person to verify their registration to any Michigan Works! Agency Service Center no later than three (3) business days before their first contact to file a claim. Claimants must retain form of verification as proof of registration of work for one year. (Fact sheet #76 Work Registration Needed for Jobless Benefits)
Minnesota	<ul style="list-style-type: none">An applicant may be eligible to receive unemployment benefits for any week if the applicant was available for suitable employment. (M.S.A. s. 268.085 Statutes Annotated)

Summary of factual data and analytical methodologies

This rule does not depend on any complex analysis of data. Instead, the changes to the rules represent common sense amendments that will assist unemployment insurance claimants to provide additional information to DWD in order that it may better assist them in returning to work.

Analysis and supporting document used to determine effect on small business or in preparation of an economic impact analysis

This rule will have a positive impact on employers and unemployment insurance claimants.

Effect on small business

This rule does not have any small business requirements but are expected to benefit all employers, including small businesses. First, the amendments are projected to result in more unemployment insurance claimants finding employment faster. As a result, unemployed individuals will be collecting unemployment insurance benefits for a shorter duration and there will be fewer charges to employers' unemployment insurance accounts. This will help reduce employers' unemployment insurance tax. Second, more unemployed individuals will be required to seek employment and DWD will be better able to assist unemployed individuals find appropriate jobs. Consequently, businesses will likely see an increase in qualified applicants when hiring employees.

Public Hearing Summary

DWD held a public hearing at three separate locations on November 4, 2013, in Milwaukee, Appleton and Madison. Following the public hearings, the hearing record remained open until November 8, 2013. No one attended the public hearings. DWD received one written comment.

<u>Name/Organization</u>	<u>Comment</u>	<u>DWD Response</u>
Victor Forberger	<p>Job Registration and Weekly Claim Filing</p> <ul style="list-style-type: none"> ○ Job registration being filed solely online without reference to assistance in multiple languages. Florida implemented a similar system which the U.S. Department of Labor (DOL) ruled was discriminatory. Mr. Forberger attached a copy of the Florida DOL initial determination. ○ While the Job Center of Wisconsin website is required now, the department needs to adopt to future job registration applications. 	<p>DWD removed language contained in the hearing draft rule referenced under a "note" that stated DWD would enable a claimant to submit required information when there is good cause for the claimant to not use a computer-based program and identified examples that constitute good cause. DWD placed the contents of this "note" into the drafted language of the proposed rule.</p>
	<p>Work Search Contacts</p> <ul style="list-style-type: none"> ○ Work search requirements should include contacts such as "LinkedIn" and other efforts to search or enhance business contacts and skills. ○ 	<p>This issue was addressed by the Unemployment Insurance Advisory Council (UIAC) and the recommended changes were implemented.</p>

<p>Victor Forberger (continued)</p>	<p>Increasing Job Search Requirements</p> <ul style="list-style-type: none"> o Leaving a window of only four weeks before a claimant is required to increase job efforts is too short. There should be at least 15-20 weeks minimum before any department declaration is made regarding a claimant's work search efforts. 	<p>This issue was addressed by the UIAC and the recommended changes were implemented.</p>
	<p>Record-Keeping</p> <ul style="list-style-type: none"> o Changing the requirement for claimants to retain verification of job search actions from 8 to 52 weeks is a burden on claimants and for employers who will be asked to verify job applications. 	<p>The UIAC did not recommend changes to the rule provision. Record keeping is necessary for audits required under s. 108.14, (20), Stats.</p>
	<p>Job Search and Registration Waivers</p> <ul style="list-style-type: none"> o Employers not verifying return to work dates so claimants will be granted a work search waiver. 	<p>This issue was addressed by the UIAC and the recommended changes were implemented.</p>

PROPOSED ORDER OF THE WISCONSIN
DEPARTMENT OF WORKFORCE DEVELOPMENT
AMENDING, CREATING, AND ADOPTING RULES

1 The Wisconsin department of workforce development proposes the following order *to repeal*
2 DWD 126.02 (2) to (4), 126.03 (1), (2) (a) to (c), 126.04, 126.05, 127.01 (2) (b), and (e) to (i),
3 127.02 (3) (a) to (c), (5), (10), and (11) (a) and (b), and 127.08; *to consolidate, renumber and*
4 *amend* DWD 127.02 (11) (intro.) and (d); *to renumber and amend* DWD 126.02 (1), 127.02
5 (3) (intro.), 127.04 (1) (a) to (d), 127.06 (1) and 129.01 (1) and (2) (a); *to amend* DWD 126.01,
6 126.03 (intro.) and (2) (intro.), 127 (title), 127.01 (1), (2) (intro.), (a), (c) to (d), and (3), 127.02
7 (intro.), (1), (2) (intro.) and (b), (4), (7) and (9), 127.04 (title), (1) (intro.) and (2), 127.05, 127.06
8 (2) and (3), 127.07 (title) and (1), 128.01 (2) (a), and 129.01 (2) (b); *to repeal and recreate*
9 DWD 127.01 (2) (j) and 127.07 (2); and *to create* DWD 126.02 (1m), (2m) and (Note), 126.03
10 (2) (am) to (cm) and (3) to (7), 127.01 (2) (em) and (j) (Note), 127.04 (1) (am) and (bm) and
11 (Note), (1m) (intro.) and (e), 127.06 (1) (b), and 129.01 (1) (a), (b) and (Note) and (2) (a) 1., 2.
12 and (Note) relating to unemployment insurance work registration, work search and benefit
13 claiming procedures and small business.

Analysis Prepared by the Department of
Workforce Development

Statutes Interpreted

Statutes Interpreted: Ch. 108, Stats.

Statutory Authority

Statutory Authority: ss. 108.04, 108.08, 108.09, and 108.14, Stats.

Explanation of Statutory Authority

The Department of Workforce Development (DWD) has specific and general authority to establish rules interpreting and clarifying provisions of ch. 108, Stats., unemployment insurance and reserves. DWD has general authority for promulgating rules with respect to ch. 108, Stats., under s. 108.14 (2), Stats. 2013 Wisconsin Act 20 amended s. 108.04 (2) (a) 2., Stats., to provide that unemployment insurance claimants must register for work as directed by DWD. Section 108.04 (2) (b) provides DWD may prescribe rules that unemployment insurance claimants must follow to register for work and search for work and may by general rule waive these requirements under certain stated conditions. Under s. 108.08 (1), Stats., in order to receive benefits, claimants shall give notice to DWD with respect to the claimants' unemployment. The statute provides that the method used by claimants to provide notice of their unemployment shall be prescribed by rule of DWD. Under s. 108.09 (1), Stats., claims for benefits shall be filed pursuant to rules prescribed by DWD.

Related Statutes or Rules

Chapter 108, Stats., governs the state's unemployment insurance system. Section 108.04 provides the primary eligibility requirements an unemployed person must satisfy in order to qualify for benefits. Section 108.04 (2), Stats., provides a claimant is eligible for benefits as to any given week only if the individual is able to work and available for work during that week, the individual has registered for work as directed by DWD, and the individual conducts a reasonable search for suitable work during that week. Moreover, it provides that a claimant must provide available information or job application materials that are requested by DWD.

Plain Language Analysis

The rule modifies existing rules by simplifying and clarifying the intent of the administrative code provisions surrounding registration and work search requirements for an unemployment insurance claimant. Also the rule modification enables DWD to adapt work registration and work search requirements as advances in technology make changes possible and necessary. Moreover, the rule changes facilitate DWD's ability to audit the work search actions of unemployment insurance claimants as required by the newly enacted statutory provision s. 108.14 (20), Stats., that was created by 2013 Wisconsin Act 36. In addition, the existing administrative rules provide for waivers from the work search requirement. The rule amendments decrease and narrow the remaining waivers.

The rule changes will streamline the ability of DWD to ensure that individuals receiving unemployment insurance benefits are actively seeking work to become reemployed. The rule modification will also strengthen DWD's objective that those individuals receiving unemployment insurance are engaging in activities that constitute a reasonable effort to obtain employment.

The rule amendments clarify that DWD has the authority to request information from claimants to assist them in finding employment. More specifically, the amendments to ch. DWD 129 grant DWD the flexibility to implement improvements with respect to the claims filing procedures.

Summary of, and comparison with, existing or proposed federal statutes and regulations

Unemployment insurance was initiated on a national basis in the United States as Title III and Title IX of the Social Security Act of 1935 and is a Federal-State coordinated program. Each state administers its own program within national guidelines promulgated under federal law. As a condition of a state receiving its unemployment compensation administrative grant, 42 USC 503 (a) provides that the Secretary of Labor must find that the law of the state includes certain requirements. Specifically, 42 USC 503 (a) (12) provides that state laws must have as a condition of eligibility for unemployment insurance that claimants must be able to work, available to work, and actively seeking work. Moreover, 42 USC 503 (a) (10) provides that state laws require, as a condition of eligibility for benefits for any week, any claimant that has been referred to reemployment services or similar services, has completed such services or there is justifiable cause for the claimant's failure to participate in such services.

Comparison with rules in adjacent states

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Iowa	An individual may file an initial claim for unemployment benefits by telephone, in person or other means prescribed by the department or may call the service center during regular business hours. Claims filed in accordance with this rule shall be deemed filed as of Sunday of the week in which the claim is filed, but must register for work at a workforce development center (IA 871-24.2 (96)) Administrative Code
Michigan	<p>Claims for benefits shall be made pursuant to regulations prescribed by the unemployment agency. The unemployment agency shall designate representatives who shall promptly examine claims and make a determination on the facts. (M.C.L.A. 421.32)</p> <p>An individual shall file a new, additional, or reopened claim or shall report to file a continued claim as directed by the agency. (Mich. Admin. Code R. 421.210 (3))</p>
Minnesota	<p>An application for unemployment benefits may be filed in person, by mail, or by electronic transmission as the unemployment insurance agency may require. (M.S.A. s. 268.07 Statutes Annotated)</p> <p>The unemployment insurance agency shall notify the claimant of the method that should be used to make ongoing claims for benefits. The first method is through electronic transmission which means the claims may be filed by electronic mail address, telephone number, or Internet address prescribed by the commissioner for that claimant. The other method that the unemployment insurance agency may designate for the claimant is for the claim to be filed by mail. (M.S.A. s. 268.0865 Statutes Annotated)</p>

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	must make is dependent upon the condition of the local labor market, the duration of benefit payments, a change in claimant characteristics, job prospects in the community, and such other factors as the department deems relevant. (IA 871-24.22 (96) f. Administrative Code)
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This rule will have a positive impact on employers and unemployment insurance claimants.

Effect on small business

This rule does not have any small business requirements but are expected to benefit all employers, including small businesses. First, the amendments are projected to result in more unemployment insurance claimants finding employment faster. As a result, unemployed individuals will be collecting unemployment insurance benefits for a shorter duration and there will be fewer charges to employers' unemployment insurance accounts. This will help reduce employers' unemployment insurance tax. Second, more unemployed individuals will be required

to seek employment and DWD will be better able to assist unemployed individuals find appropriate jobs. Consequently, businesses will likely see an increase in qualified applicants when hiring employees.

Agency contact person

Questions and comments related to this rule may be directed to:

Janell Knutson
Department of Workforce Development
Division of Unemployment Insurance
P.O. Box 8942
Madison, WI 53708-8942
Telephone: (608) 266-1639
E-Mail: janell.knutson@dwd.wi.gov

Place where comments are to be submitted and deadline for submission

Janell Knutson
Department of Workforce Development
Division of Unemployment Insurance
P.O. Box 8942
Madison, WI 53708-8942
Telephone: (608) 266-1639
E-Mail: janell.knutson@dwd.wi.gov

The department held a public hearing in three separate locations on November 4, 2013. Written comments were accepted until November 8, 2013.

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- 1 **SECTION 1.** DWD 126.01 is amended to read:
- 2 DWD 126.01 ~~**Purpose.**~~ Under s. 108.04 (2), Stats., **Eligibility.** Except as waived by the
- 3 department under this chapter, a claimant who is ~~totally~~ unemployed is eligible for
- 4 unemployment benefits for any given week only if the claimant has registered for work, ~~unless~~
- 5 ~~the registration requirement has been waived by the department. This chapter specifies what~~

1 registration is, ~~when the requirement shall be waived, and when it shall be presumed that the~~
2 ~~claimant is participating in reemployment services.~~

3 **SECTION 2.** DWD 126.02 (1) is renumbered DWD 126.02 (intro.) and amended to read:

4 DWD 126.02 (intro.) ~~Except as provided in sub. (4), a~~ A claimant shall be considered
5 registered for work with respect to any given week if ~~he or she files~~ the claimant has filed an
6 application to establish a benefit year pursuant to s. DWD 129.02, and has completed and
7 submitted, by computer-based programs or other methods approved by the department, all
8 information for registration for work as prescribed by the department and within a time-frame
9 specified by the department. The department shall consider alternate forms of submittal of
10 completed information by a claimant on an individual basis when there is good cause for the
11 claimant's inability to use a computer-based program. Good cause for failure to use a computer
12 based program as prescribed by the department shall include any of the following:

13 **SECTION 3.** DWD 126.02 (1m), (2m) and (Note) are created to read:

14 DWD 126.02 (1m) The claimant possesses physical, mental, educational, or linguistic
15 limitations.

16 (2m) The claimant has unusual or unavoidable circumstances beyond the claimant's
17 control.

18 **Note:** The department shall notify claimants that it will consider alternate methods for
19 work registration if there is good cause for the claimant's inability to use a
20 computer-based program. In addition, the department shall provide claimants with
21 information about how to request work registration assistance.

22
23 **SECTION 4.** DWD 126.02 (2) to (4) are repealed.

24 **SECTION 5.** DWD 126.03 (intro.) is amended to read:

25 DWD 126.03 **Waiver of work registration requirement.** The department shall waive a
26 claimant's work registration requirement for any given week if any of the following apply:

1 **SECTION 6.** DWD 126.03 (1) is repealed.

2 **SECTION 7.** DWD 126.03 (2) (intro.) is amended to read:

3 DWD 126.03 (2) The claimant: is currently laid off from employment with an employer
4 but the employer has verified with the department there is a reasonable expectation that the
5 claimant will be returning to employment within a period of 8 weeks, which may be extended an
6 additional 4 weeks but may not exceed a total of 12 weeks. If the employer does not verify the
7 claimant's employment status, the department may consider any of the following:

8 **SECTION 8.** DWD 126.03 (2) (a) to (c) are repealed.

9 **SECTION 9.** DWD 126.03 (2) (am) to (cm), and (3) to (7) are created to read:

10 DWD 126.03 (2) (am) The history of layoffs and reemployments by the employer.

11 (bm) Any information that the employer furnished to the individual concerning the
12 claimant's anticipated reemployment date.

13 (cm) Whether the claimant has recall rights with the employer under the terms of any
14 applicable collective bargaining agreement.

15 (3) The claimant has a reasonable expectation of starting employment with a new
16 employer within 4 weeks and the employer has verified the anticipated starting date with the
17 department. The waiver shall not exceed 4 weeks.

18 (4) The claimant has been laid off from work and routinely obtains work through a union
19 referral and all of the following apply:

20 (a) The union is the primary method used by workers to obtain employment in the
21 claimant's customary occupation.

22 (b) The union maintains a record of unemployed members, and the referral activities of
23 these members, and allows the department to inspect such records.

1 (c) The union provides, upon the request of the department, any information regarding a
2 claimant's registration with the union or any referrals for employment it has made to the
3 claimant.

4 (d) Prospective employers of the claimant seldom place orders with the public
5 employment office for jobs requiring occupational skills similar to those of the claimant.

6 (e) The claimant is registered for work with a union and satisfies the requirements of the
7 union relating to job referral procedures, and maintains membership in good standing with the
8 union.

9 (f) The union enters into an agreement with the department regarding the requirements of
10 this subsection.

11 (5) The claimant is summoned to serve as a prospective or impaneled juror.

12 (6) The claimant is enrolled in and satisfactorily participating in a course of approved
13 training under s. 108.04 (16), Stats., in a work share program under s. 108.062 (10m), Stats., in a
14 self-employment assistance program or another program enacted by the Wisconsin or federal
15 legislature and the program includes that claimants who participate in the program shall be
16 waived by the department from work registration requirements.

17 (7) The claimant is unable to complete registration due to circumstances which the
18 department determines are beyond the claimant's control.

19 **SECTION 10.** DWD 126.04 and 126.05 are repealed.

20 **SECTION 11.** DWD 127 (title) is amended to read:

21 **DWD 127 WORK SEARCH AND REEMPLOYMENT SERVICES**

1 SECTION 12. DWD 127.01 (1), (2) (intro.) and (a) are amended to read:

2 DWD 127.01 **Work search; policy; requirements.** (1) ~~Under s. 108.04 (2), Stats., a A~~
3 claimant shall be eligible for unemployment benefits for any given week only when the
4 department finds, ~~among other things~~, that the claimant has ~~within that week made a reasonable~~
5 completed at least 4 actions to search for suitable work within that week. ~~The search for suitable~~
6 ~~work shall include at least 2 actions by the claimant each week that are reasonably designed to~~
7 ~~secure work. Mere registration~~ Upon request of the department, a claimant shall provide
8 verification of conducting at least 4 work search actions that are reasonably designed to secure
9 work. Registration for work under ch. DWD 126 does not establish that the claimant is making a
10 reasonable search for suitable work. It is essential that the claimant personally and diligently
11 search for suitable work ~~on his or her own behalf~~. The reasonableness of a search for work will,
12 in part, depend on the employment opportunities in the claimant's labor market area. A work
13 search which may be appropriate in a labor market area with limited opportunities may be totally
14 unacceptable in an area with greater opportunities. Unreasonable limitations by a claimant as to
15 salary, hours or conditions of work indicate that a claimant is not making a reasonable search for
16 suitable work. The department expects each ~~claimant~~ claimants to conduct ~~himself or herself~~
17 themselves as would a prudent person who is out of work and seeking work.

18 (2) ~~The department shall consider~~ Any of the following actions to be by a claimant shall
19 constitute a reasonable work ~~search for suitable work under the facts and circumstances of each~~
20 ~~claimant's situation~~ action:

21 (a) ~~Making applications~~ Applying for work with employers who may reasonably be
22 expected to have openings for suitable work; except that applications submitted to the same
23 employer more than once in a 4-week period are not credited as a work search action unless a

1 new job is posted by the employer or available, or the employer's customary practices or
2 circumstances encourage the submission of additional applications or the provisions under s.
3 108.04 (2) (i), Stats., apply.

4 **SECTION 13.** DWD 127.01 (2) (b) is repealed.

5 **SECTION 14.** DWD 127.01 (2) (c) to (d) are amended to read:

6 DWD 127.01 (2) (c) Making applications ~~or taking~~ for suitable work.

7 (cm) Taking examinations for suitable work in the civil service of a governmental unit;

8 (d) Registering for suitable work with a public or private placement facility, including a
9 ~~union referral or hiring hall and complying with the various union registration requirements and~~
10 ~~job referral procedures;~~

11 **SECTION 15.** DWD 127.01 (2) (e) to (i) are repealed.

12 **SECTION 16.** DWD 127.01 (2) (em) is created to read:

13 DWD 127.01 (2) (em) Following the recommendations of a public employment office or
14 similar reemployment services, including participation in reemployment services.

15 **SECTION 17.** DWD 127.01 (2) (j) is repealed and recreated to read:

16 DWD 127.01 (2) (j) Other actions the department may determine as constituting a
17 reasonable work search action.

18 **SECTION 18.** DWD 127.01 (2) (j) (Note) is created to read:

19 DWD 127.01 (2) (j) **Note:** The department shall include in the UCB-10 Handbook for
20 Claimants examples of reasonable work search actions. In addition, the department
21 shall include information on how claimants can contact the department with questions
22 related to work search actions.

23
24 **SECTION 19.** DWD 127.01 (3) is amended to read:

25 DWD 127.01 (3) A Except if the work search requirement has been waived by the
26 department, a claimant shall be ineligible for unemployment benefits in any given week in which

1 the department determines that the claimant's search for suitable work was not reasonable under
2 the requirements of this section unless the search has been waived by the department claimant
3 did not conduct at least 4 actions to search for suitable work within that week.

4 **SECTION 20.** DWD 127.02 (intro.), (1), (2) (intro.) and (b) are amended to read:

5 DWD 127.02 **Waiver of work search requirements.** The department shall waive a
6 claimant's search for suitable work requirement under s. DWD 127.01 for any week under to
7 conduct at least 4 actions to search for suitable work if any of the following circumstances apply:

8 (1) The claimant performs any at least 20 hours of work for his or her customary any
9 employer in that week.

10 (2) The claimant is currently laid off from employment with an employer but there is a
11 reasonable expectation of reemployment of that the claimant by that employer will be returning
12 to employment within a period of 8 weeks, which may be extended an additional 4 weeks but
13 may not exceed a total of 12 weeks. In determining whether the claimant has a reasonable
14 expectation of reemployment by the employer, the department shall request the employer to
15 verify the claimant's employment status ~~and shall also.~~ If the employer does not verify the
16 claimant's employment status, the department may consider other factors, including any of the
17 following:

18 (b) Any information that the employer furnished to the individual ~~or the department~~
19 concerning the claimant's anticipated reemployment date.

20 **SECTION 21.** DWD 127.02 (3) (intro.) is renumbered DWD 127.02 (3) and amended to
21 read:

22 DWD 127.02 (3) The claimant has a reasonable expectation of starting work
23 employment with a new employer within 4 weeks ~~of the week in which waiver is being~~

1 considered. In determining whether a claimant has a reasonable expectation of starting work with
2 a new employer, the department shall consider factors including, but not limited to, the
3 following; and the employer has verified the anticipated starting date with the department. The
4 waiver shall not exceed 4 weeks.

5 SECTION 22. DWD 127.02 (3) (a) to (c) are repealed.

6 SECTION 23. 127.02 (4) is amended to read:

7 DWD 127.02 (4) The claimant has been laid off from work and routinely obtains work
8 through a union referral ~~or hiring hall process. Waiver under this subsection may be permitted~~
9 ~~only if~~ and all of the following apply:

10 (a) The union ~~referral or hiring hall process~~ is the primary method used by which
11 workers to obtain work employment in the claimant's customary occupation;

12 (b) The union maintains a record of unemployed members, and the referral activities of
13 these members, and allows the department to inspect such records;

14 (c) The union provides, upon the request of a the department ~~deputy~~, any information
15 regarding a claimant's registration ~~or a job opening or referral;~~ with the union or any referrals for
16 employment it has made to the claimant.

17 (d) Prospective employers of the claimant seldom place orders with the public
18 employment office for jobs requiring occupational skills similar to those of the claimant;

19 (e) The claimant is registered for work with ~~his or her~~ a union and satisfies the
20 requirements of the union relating to job referral procedures, and ~~maintenance of~~ maintains
21 membership in good standing; ~~and with the union.~~

22 (f) The union enters into ~~a written~~ an agreement with the ~~public employment office~~
23 department regarding the requirements of this subsection.

1 **SECTION 24.** DWD 127.02 (5) is repealed.

2 **SECTION 25.** DWD 127.02 (7) and (9) are amended to read:

3 DWD 127.02 (7) The claimant is enrolled in and satisfactorily participating in a course
4 of approved training under s. 108.04 (16), Stats., in a work share program under s. 108.062
5 (10m), Stats., or in a self-employment assistance program or another program that has been
6 enacted by the Wisconsin or federal legislature and the program includes that claimants who
7 participate in the program shall be waived by the department from work search requirements.

8 (9) ~~The claimant was not aware of the work search requirement and the claimant's most~~
9 ~~recent employer failed to post and maintain the notice on claiming unemployment benefits that~~
10 ~~was supplied to the employer appropriate notice-posters as to claiming unemployment benefits as~~
11 required under s. DWD 120.01 and the claimant was not aware of the work search requirement.

SECTION 26. DWD 127.02 (10) is repealed.

12 **SECTION 27.** DWD 127.02 (11) (intro.) and (d) are consolidated, renumbered DWD
13 127.02 (11) and amended to read:

14 DWD 127.02 (11) The claimant has been ~~determined, pursuant to a profiling system~~
15 ~~established by the department, to be likely to exhaust regular unemployment insurance benefits~~
16 ~~and to need referred for reemployment services in order to make a successful transition to new~~
17 ~~employment, and (d) The claimant has been referred for reemployment services and, is~~
18 participating in such services, or is not participating in such services, but has justifiable cause
19 for his or her failure to participate. Justifiable cause includes, but is not limited to, that the
20 claimant is unable to participate due to any of the following:

21 (a) The claimant is summoned to serve as a prospective or ~~paneled~~ impaneled juror;.

1 (b) The claimant is enrolled and satisfactorily participating in a course of training
2 approved by the department; in a work share program under s. 108.062 (10m), Stats., or in a
3 self-employment assistance program or another program that has been enacted by the Wisconsin
4 or federal legislature and the program includes that claimants who participate in the program
5 shall be waived by the department from work search requirements.

6 (c) The claimant is ~~unable to participate because the claimant is employed;~~

7 (d) The claimant is ~~unable to participate because of a~~ attending a job interview; ~~or,~~

8 (e) ~~The claimant is unable to participate due to circumstances~~ Circumstances which the
9 department determines are beyond the claimant's control.

10 **SECTION 28.** DWD 127.02 (11) (a) and (b) are repealed.

11 **SECTION 29.** DWD 127.04 (title) and (1) (intro.) are amended to read:

12 DWD 127.04 **Claimants to present evidence verification of work search efforts**

13 **actions.** (1) ~~The department may require~~ Upon request, a claimant ~~to shall~~ provide evidence of
14 ~~his or her~~ verification of conducting at least 4 work search efforts actions to the department ~~for~~
15 ~~any time period up to and including the 8-week period prior to the date that the department~~
16 ~~makes the request. The department may also notify the claimant that evidence will be required~~
17 ~~for a future week. The department may verify the evidence submitted. Evidence which a~~
18 ~~claimant customarily would be expected to submit includes the following: by computer-based~~
19 programs or other methods approved by the department. The department shall consider alternate
20 forms of submittal of completed information by a claimant on an individual basis when there is
21 good cause for the claimant's inability to use a computer-based program. Good cause for failure
22 to use a computer-based program as prescribed by the department shall include any of the
23 following:

1 **SECTION 30.** DWD 127.04 (1) (am) and (bm) are created to read:

2 DWD 127.04 (1) (am) The claimant possesses physical, mental, educational, or linguistic
3 limitations.

4 (bm) The claimant has unusual or unavoidable circumstances beyond the claimant's
5 control.

6 **SECTION 31.** DWD 127.04 (1) (a) to (d) are renumbered DWD 127.04 (1m) (a) to (d) and
7 amended to read:

8 DWD 127.04 (1m) (a) ~~In the case of employer contacts:~~ Applications for work including
9 the date on which the claimant made an employer contact; if available, the name and address of
10 the employer and the name of the employer representative contacted; the type of work applied
11 for; the method used to contact the employer and the results of the contact; or other verifiable
12 information of the application.

13 (b) ~~In the case of civil~~ Civil service examinations: the date on which the claimant took an
14 examination, the location of the examination and the ~~type of work applied for; position for which~~
15 the examination was taken.

16 (c) ~~In the case of registration~~ Registration with a union referral or hiring hall,
17 ~~professional organization or educational placement facility or private employment agency and~~
18 placement facilities; the date on which the claimant registered and the ~~type of work for which the~~
19 ~~claimant is registered; and~~ name and address of the facility.

20 (d) ~~Evidence of any other action which the claimant took during a given week to seek~~
21 ~~work including, but not limited to, any responses to advertisements for suitable work and~~
22 ~~submission of personal resumes to prospective employers.~~ Any reemployment services used at a
23 public employment office: the date of the visit, the name and address of the public employment

1 office, training program or similar reemployment office and the name of the person with whom
2 the claimant met.

3 **SECTION 32.** DWD 127.04 (1) (Note), (1m) (intro.) and (e) are created to read:

4 DWD 127.04 (1) **Note:** The department shall notify claimants that it will consider
5 alternate methods to verify a claimant's work search actions if there is good cause for
6 the claimant's inability to use a computer-based program. In addition, the department
7 shall provide claimants with information about how to request assistance with
8 providing work search verification.
9

10 (1m) (intro.) A claimant shall retain verification of all work search actions for 52 weeks
11 following the week in which the work search actions occurred. Items used for verification shall
12 include any of the following:

13 (e) If approved by the department, any other type of work search activity reasonably
14 expected to result in the claimant becoming employed.

15 **SECTION 33.** DWD 127.04 (2) is amended to read:

16 DWD 127.04 (2) ~~The department may disqualify a~~ A claimant may be ineligible for
17 unemployment benefits in any given week for in which the evidencee claimant fails to provide
18 satisfactory verification of work search efforts is insufficient to establish that the claimant made
19 a reasonable search for suitable work actions when requested by the department.

20 **SECTION 34.** DWD 127.05 is amended to read:

21 DWD 127.05 **Certification as to work search.** The department may require any a
22 claimant to certify that a work search ~~was~~ actions were made each week as part of the claim
23 filing procedure under ch. DWD 129.

24 **SECTION 35.** DWD 127.06 (1) is renumbered DWD 127.06 (1) (intro.) and amended to
25 read:

1 DWD 127.06 **Added efforts to secure work. (1) (intro.)** The department may require
2 ~~any claimant whose~~ In addition to the requirements under s. DWD 127.01 (2), if a claimant has
3 been unemployed for 7 or more consecutive weeks, a claimant may be required to perform any
4 of the following:

5 (a) Conduct 5 work search actions within any given week when the department
6 determines a claimant's employment history or conduct indicates that he or she may not be
7 genuinely interested that the claimant is placing unreasonable limitations as to salary, hours, or
8 conditions of work in accepting new work to make a minimum number of weekly in-person
9 applications for work with employers and may also require the claimant to comply with any of
10 the provisions under s. DWD 127.01 (2). The department shall provide each claimant with
11 instructions as to how to comply with the requirements under this section. A claimant shall be
12 ineligible for benefits for any week in which the claimant has failed, without good cause, to
13 comply with any requirements imposed by the department under this subsection or is not
14 engaging in work search efforts as would a prudent person who is out of work and is seeking
15 work.

16 **SECTION 36.** DWD 127.06 (1) (b) is created to read:

17 DWD 127.06 (1) (b) Develop a work search plan for approval by the department. The
18 plan may include a requirement to complete 5 work search actions per week. The plan shall
19 consider the number of job opportunities available in the labor market area where the claimant
20 usually works.

21 **SECTION 37.** DWD 127.06 (2) and (3) are amended to read:

22 DWD 127.06 (2) ~~After a claimant has been unemployed for 4 or more consecutive~~
23 ~~weeks, the department may require the claimant to develop a work search plan for approval by~~

1 ~~the department.~~ A claimant shall be ineligible for benefits in any given week in which the
2 department determines that the claimant failed, without good justifiable cause, ~~either to develop~~
3 ~~or to comply with the work search plan~~ the requirements under sub. (1).

4 (3) A claimant who is claiming extended benefits under s. 108.141, Stats., shall, ~~in~~
5 ~~addition to complying with the requirements for extended benefits,~~ comply with any
6 requirements imposed by the department under ~~subs. sub. (1) and (2).~~ A claimant who fails to
7 comply with the requirements under this subsection shall be ineligible for benefits until the
8 claimant has again worked within at least 4 subsequent weeks and earned wages equal to at least
9 4 times ~~his or her~~ the claimant's extended weekly benefit rate.

10 **SECTION 38.** DWD 127.07 (title) and (1) are amended to read:

11 DWD 127.07 ~~Employment workshops~~ Reemployment services. (1) The department
12 may require a claimant to participate in a public employment office workshop, training program
13 or similar reemployment services which offers instruction in improving the claimant's skills for
14 finding and obtaining employment. The claimant shall be ineligible for benefits for any given
15 week for which the department determines that the claimant failed, without good cause, to
16 participate in such a workshop, training program or similar reemployment services.

17 **SECTION 39.** DWD 127.07 (2) is repealed and recreated to read:

18 DWD 127.07 (2) The department may find that a claimant has justifiable cause for
19 failure to participate in reemployment services in any given week. Justifiable cause for failure to
20 participate in reemployment services includes that the claimant is unable to participate due to any
21 of the following:

22 (a) The claimant is summoned to serve as a prospective or impaneled juror.

1 (b) The claimant is enrolled and satisfactorily participating in a course of training
2 approved by the department, in a work share program under s. 108.062 (10m), Stats., in a self-
3 employment assistance program or another program designed to assist individuals to become
4 employed that has been enacted by the Wisconsin or federal legislature.

5 (c) The claimant is employed.

6 (d) The claimant is attending a job interview.

7 (e) Circumstances which the department determines are beyond the claimant's control.

8 **SECTION 40.** DWD 127.08 is repealed.

9 **SECTION 41.** DWD 128.01 (2) (a) is amended to read:

10 DWD 128.01 (2) (a) The claimant has registered for work and has complied with ~~ss.~~ s.
11 DWD 126.02 and 126.04, or registration is waived under s. DWD 126.03 ~~or excused under s.~~
12 DWD 126.05.

13 **SECTION 42.** DWD 129.01 (1) is renumbered DWD 129.01 (1) (intro.) and amended to
14 read:

15 DWD 129.01 (1) INITIATING A CLAIM. A claimant is not eligible under s. 108.08, Stats.,
16 for benefits for any week of total or partial unemployment unless the claimant notifies the
17 department ~~by telephone, internet, or as otherwise prescribed by the department,~~ during that
18 week or within 7 days after the close of that week, of the claimant's intent to initiate the claim
19 and the claimant complies with the department's procedures for initiating and continuing claims.
20 If the department provides for a single method for initiating a claim and a claimant has good
21 cause for the claimant's inability to use that method, the department shall provide reasonable
22 accommodations for the claimant to be able to complete the claim. Good cause for failure to

1 initiate a claim as prescribed by the department shall include, if it prevents the claimant from
2 using the method prescribed by the department, any of the following:

3 **SECTION 43.** DWD 129.01 (1) (a), (b) and (Note) are created to read:

4 DWD 129.01 (1) (a) The claimant possesses physical, mental, educational, or linguistic
5 limitations.

6 (b) The claimant has unusual or unavoidable circumstances beyond the claimant's
7 control.

8 **Note:** The department shall notify claimants that it will consider alternate methods for
9 initiating a claim if there is good cause for the claimant's inability to use a computer-
10 based program. In addition, the department shall provide claimants with information
11 about how to request assistance with initiating a claim.

12 **SECTION 44.** DWD 129.01 (2) (a) is renumbered DWD 129.01 (2) (a) (intro.) and
13 amended to read:

14 DWD 129.01 (2) (a) (intro.) A claimant is not eligible for benefits for any week of total
15 or partial unemployment unless the claimant files a timely weekly certification with the
16 department ~~by telephone, internet, mail, or as otherwise prescribed by the department.~~ If the
17 department provides for a single method for a claimant to continue a claim by filing a weekly
18 certification and a claimant has good cause for the claimant's inability to use that method, the
19 department shall provide a reasonable accommodation for the claimant to be able to complete the
20 claim. Good cause for failure to file a weekly certification as prescribed by the department shall
21 include, if it prevents the claimant from using the method prescribed by the department, any of
22 the following:

23 **SECTION 45.** DWD 129.01 (2) (a) 1. , 2. and (Note) are created to read:

24 DWD 129.01 (2) (a) 1. The claimant possesses physical, mental, educational, or
25 linguistic limitations.

2. The claimant has unusual or unavoidable circumstances beyond the claimant's control.

Note: The department shall notify claimants that it will consider alternate methods to file the weekly certification if there is good cause for the claimant's inability to use a computer-based program. In addition, the department shall provide claimants with information about how to request assistance with weekly claim certification.

SECTION 46. DWD 129.01 (2) (b) is amended to read:

DWD 129.01 (2) (b) The department shall consider a weekly certification to be filed when the certification is complete and submitted in compliance with the applicable requirements ~~of one of~~ for the following methods authorized by the department:

1. A claimant may continue a claim only by filing timely weekly certifications by ~~telephone, internet, mail, or as otherwise prescribed by the department, no later than 14 days following the end of the week for which benefits are claimed. A weekly certification submitted by mail must be received by the department within 14 days following the end of the week for which benefits are claimed or within 14 days following the date the department mailed the weekly certification to the claimant, whichever occurs later. If a claimant submits a timely but incomplete weekly certification by mail, the department shall send the claimant a duplicate weekly certification that must be received by the department within 14 days following the date the department mailed the duplicate weekly certification to the claimant. If the last day for filing a mailed weekly certification falls on Saturday, Sunday, or any of the holidays enumerated under ss. 230.35 (4) (a) and 995.20, Stats., or any other day on which mail is not delivered by the United States postal service, a weekly certification must be received by the department on the next business day. If the claimant attempts to submit a weekly certification by telephone or the internet method prescribed by the department for notification for the claimant to use is the internet or telephone, the department shall notify the claimant for which weeks the claimant may file a weekly certification and at the end of the transaction whether the weekly certification has~~

1 been accepted. The department shall consider a weekly certification to be filed when the
2 certification is complete, timely submitted, and accepted by the department.

3 2. A claimant may not file a weekly certification for any week unless a ~~timely~~ weekly
4 certification for the immediately preceding week was timely filed or a an initial claim was timely
5 filed for the week.

6 **SECTION 47. EFFECTIVE DATE.** With respect to changes to ss. DWD 126.03 and 127.02,
7 the rule will take effect when the Secretary determines the department has the technological
8 ability to implement the changes. The remainder of this rule takes effect on the first day of the
9 month following publication in the Wisconsin administrative register, as provided in s. 227.22
10 (2) (intro.), Stats.

Dated this _____ day of _____, 2014.

WISCONSIN DEPARTMENT OF
WORKFORCE DEVELOPMENT

Reginald J. Newson, Secretary

Wisconsin Department of Workforce Development

Final Regulatory Flexibility Analysis

Rule Subject: Unemployment Insurance Work Registration, Work Search and Benefit Claiming Procedures

Adm. Code Reference: DWD 126, 127 and 129

Rules Clearinghouse #: 13-081

Rule Summary

The amendments to the rules give the Department of Workforce Development (DWD) the flexibility to implement the claims filing procedures envisioned under unemployment insurance modernization. Also, the amendments simplify and clarify the intent of the administrative code provisions surrounding registration and work search requirements for unemployment insurance claimants. Moreover, the amendments enable DWD to modify work registration and work search requirements as advances in technology make changes possible and necessary. The underlying purpose behind these changes is that individuals who are receiving unemployment insurance shall have as their full-time job acquiring employment. Among other things, the amendments to the rules will do all of the following:

Registration for Work Requirement

- Ensure the rules correspond with recently enacted legislation that provides that, except if waived from the registration requirement, all unemployment insurance claimants must register for work with DWD;
- Require unemployment insurance claimants to provide information to DWD to facilitate their reemployment efforts;
- Provide DWD with flexibility to prescribe the standards for the content of the information required of claimants to complete their registration for work;
- Ensure that unemployment insurance claimants who possess barriers to using computer-based systems to register for work will have accommodations made to facilitate their registration for work;
- Remove the presumption that claimants who have registered for work with DWD are also participating in reemployment services; and,
- Update and clarify when DWD will waive the requirement that a claimant register for work.

Work Search Requirement

- Alter the rules to be consistent with recently enacted legislation that provides that, except if waived from the work search requirement, unemployment insurance claimants must conduct at least four weekly work search actions;
- Grant explicit authority to DWD that it may require claimants to provide proof that they have conducted at least four actions that are reasonably designed to secure work;
- Update what actions by claimants will be considered to constitute a reasonable search for suitable work;
- Decrease the circumstances in which DWD will waive the requirement that unemployment insurance claimants must perform work search actions;
- Narrow and fine-tune the remaining circumstances under which DWD will waive the work search requirement for claimants;
- As required by recently enacted legislation, provide uniform criteria for when DWD will require claimants to conduct more than four work search actions in a given week;

Benefit Claiming Procedures

- Grant DWD the authority to prescribe the method or methods by which unemployment insurance claimants initiate a claim for benefits;
- Ensure that DWD will provide alternative methods to unemployment insurance claimants who have barriers to using computer-based programs to claim benefits; and,
- Authorize DWD to prescribe the method or methods by which unemployment insurance claimants file a weekly certification in order to continue to claim benefits.

Small Business Affected

This rule does not have any small business requirements but are expected to benefit all employers, including small businesses. First, the amendments are projected to result in more unemployment insurance claimants finding employment faster. As a result, unemployed individuals will be collecting unemployment insurance benefits for a shorter duration and there will be fewer charges to employers' unemployment insurance accounts. This will help reduce employers' unemployment insurance tax. Second, more unemployed individuals will be required to seek employment and DWD will be better able to assist unemployed individuals find appropriate jobs. Consequently, businesses will likely see an increase in qualified applicants when hiring employees.

Reporting, Bookkeeping and other Procedures

The amendments to the rules do not regulate any small businesses and thus there are no reporting, bookkeeping, or other procedures in the amendments for small businesses.

Professional Skills Required

The amendments to the rules do not regulate any small businesses and thus there are no professional skills required for small businesses.

Accommodation for Small Business

Many of the businesses indirectly affected by these rule amendments are "small businesses." The rule amendments do not make special exceptions for small businesses because the changes to the unemployment insurance program will positively impact businesses of all sizes.

This rule changes includes provisions that will benefit large and small businesses alike. For example, this rule amendment:

- Strengthens the reporting requirements that unemployment insurance claimants will be required to provide DWD and thereby will enable DWD to better assist unemployment insurance claimants to find employment shortening the duration on unemployment insurance benefits. This will help businesses of all sizes by having fewer charges to their unemployment insurance account and result in lower unemployment insurance taxes on all businesses.
- Narrows the number of circumstances in which unemployment insurance claimants will receive a waiver from work search requirements and thereby will enable businesses with job openings to have a larger set of candidates who apply for the job. As a result, businesses will likely see an increase in qualified applicants when hiring employees.

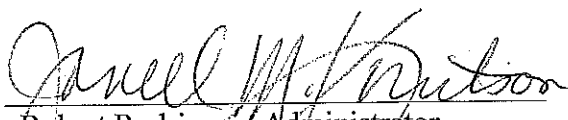
Conclusion

The rule amendments will generally benefit affected businesses, including small businesses. Negative effects, if any, will be few and limited. This rule amendment will not have a significant adverse effect on small businesses and is not subject to the delayed "small business" effective date provided in s. 227.22 (2) (e), Stats.

Dated this 2/5th day of November, 2013.

STATE OF WISCONSIN
DEPARTMENT OF WORKFORCE
DEVELOPMENT

By


for Robert Rodriguez, Administrator
Division of Unemployment Insurance

EXISTING ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

☐ Repeal ☒ Modification

2. Administrative Rule Chapter, Title and Number

Chapters DWD 126 (Work Registration), 127 (Work Search), and 129 (Benefit Claiming Procedures), unemployment insurance requirements for claimants.

3. Date Rule promulgated and/or revised; Date of most recent Evaluation

- Chapter DWD 126 was originally ch. ILHR 126. Chapter ILHR 126 was created by emergency rule and was effective January 8, 1984 and ch. ILHR 126 was renumbered ch. DWD 126 pursuant to s. 13.93 (2m) (b) 1., Stats. Chapter DWD 126 was last amended September of 2000.
- Chapter DWD 127 was originally ch. ILHR 127. Chapter ILHR 127 was created by emergency rule and was effective January 8, 1984 and ch. ILHR 127 was renumbered ch. DWD 127 pursuant to s. 13.93 (2m) (b) 6. and 7., Stats. Chapter DWD 127 was last amended December of 2006.
- Chapter DWD 129 was originally ILHR s. 129. Chapter ILHR 129 was created by emergency rule and was effective January 8, 1984 and ch. ILHR 129 was renumbered ch. DWD 129 pursuant to s. 13.93 (2m) (b) 1., Stats. Chapter DWD 129 was last amended September of 2010.

4. Plain Language Analysis of the Rule, its Impact on the Policy Problem that Justified its Creation and Changes in Technology, Economic Conditions or Other Factors Since Promulgation that alter the need for or effectiveness of the Rule.

The rule modifies existing rules by simplifying and clarifying the intent of the administrative code provisions surrounding registration and work search requirements for an unemployment insurance claimant. Also the rule modification enables the Department of Workforce Development (DWD) to adapt work registration and work search requirements as advances in technology make changes possible and necessary. Moreover, the rule changes facilitate DWD's ability to audit the work search actions of unemployment insurance claimants as required by the newly enacted statutory provision s. 108.14 (20), Stats., that was created by 2013 Wisconsin Act 36. In addition, the existing administrative rules provide for waivers from the work search requirement. The rule amendments decrease and narrow the remaining waivers.

The rule changes will streamline the ability of DWD to ensure that individuals receiving unemployment insurance benefits are actively seeking work to become reemployed. The rule modification will also strengthen DWD's objective that those receiving unemployment insurance are engaging in activities that constitute reasonable efforts to obtain employment.

The rule amendments clarify that DWD has the authority to request information from claimants to assist them in finding employment. More specifically, the amendments to ch. DWD 129 grant DWD the flexibility to implement improvements with respect to the claims filing procedures.

EXISTING ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

5. Describe the Rule's Enforcement Provisions and Mechanisms

There are a number of enforcement mechanisms for these rules:

- If an unemployment insurance claimant does not adhere to the benefit claiming procedures, work registration requirements, and work search conditions, the claimant may be determined to be ineligible for unemployment insurance benefits.
- If an unemployment insurance claimant conceals any material fact relating to his or her eligibility for benefits in order to be seen as complying with the requirements of ch. DWD 126, 127, or 129, for:
 - (1) Each single act of concealment a claimant is ineligible for benefits in an amount equivalent to two times his or her weekly benefit rate;
 - (2) Each single act of concealment occurring after the first act of concealment a claimant is ineligible for benefits in an amount equivalent to four times his or her weekly benefit rate; and,
 - (3) Each single act of concealment occurring after the date of the second or subsequent determination of concealment a claimant is ineligible for benefits in an amount equivalent to eight times his or her weekly benefit rate.

The ineligibility for benefit framework for acts of concealment is pursuant to s. 108.04 (11) (be), Stats.

- In addition, if an unemployment insurance claimant conceals any material facts relating eligibility for benefits in order to be seen as complying with the requirements of ch. DWD 126, 127, or 129, the claimant will be charged a penalty of 15% of the benefit payments paid to the claimant. The penalty framework for acts of concealment is pursuant to s. 108.04 (11) (bh), Stats.

6. Repealing or Modifying the Rule Will Impact the Following (Check All That Apply)

- ☒ State's Economy
☒ Local Government Units

- ☐ Specific Businesses/Sectors
☐ Public Utility Rate Payers
☒ Small Businesses

7. Summary of the Impacts, including Compliance Costs, identifying any Unnecessary Burdens the Rule places on the ability of Small Business to conduct their Affairs.

These rule amendments do not have any small business requirements but are expected to benefit all employers, including small businesses. First, the amendments are projected to result in more unemployment insurance claimants finding employment faster. As a result, unemployed individuals will be collecting unemployment insurance benefits for a shorter duration and there will be fewer charges to employers' unemployment insurance accounts. This will help reduce the employers' unemployment insurance tax. Second, more unemployed individuals will be required to seek employment and DWD will better be able to assist unemployed individuals find appropriate jobs. Consequently, employers will likely see an increase in qualified applicants when hiring employees.

8. List of Small Businesses, Organizations and Members of the Public that commented on the Rule and its Enforcement and a Summary of their Comments.

EXISTING ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

DWD posted the scope statement and proposed hearing draft on the DWD website and on the Wisconsin Administrative Rules' website for 14 days to solicit public comment on the economic impact of the rule. DWD did not receive any comments.

DWD held a public hearing at three separate locations on November 4, 2013, in Milwaukee, Appleton and Madison. Following the public hearings, the hearing record remained open until November 8, 2013. No one attended the public hearings. DWD received one written comment from Victor Forberger, Esquire.

Mr. Forberger expressed concern regarding the following:

- Job Registration and Weekly Claim Filing
 - o Job registration being filed solely online without reference to assistance in multiple languages. Florida implemented a similar system which the U.S. Department of Labor ruled was discriminatory. Mr. Forberger attached a copy of the Florida DOL initial determination.
 - o While the Job Center of Wisconsin website is required now, the department needs to adopt to future job registration applications.
- Work Search Contacts
 - o Work search requirements should include contacts such as "LinkedIn" and other efforts to search or enhance business contacts and skills.
- Increasing Job Search Requirements
 - o Leaving a window of only four weeks before a claimant is required to increase job efforts is too short. There should be at least 15-20 weeks minimum before any department declaration is made regarding a claimant's work search efforts.
- Record-Keeping
 - o Changing the requirement for claimants to retain verification of job search actions from 8 to 52 weeks is a burden on claimants and for employers who will be asked to verify job applications.
- Job Search and Registration Waivers
 - o Employers not verifying return to work dates so claimants will be granted a work search waiver.

9. Did the Agency consider any of the following Rule Modifications to reduce the Impact of the Rule on Small Businesses in lieu of repeal?

- ☐ Less Stringent Compliance or Reporting Requirements
- ☐ Less Stringent Schedules or Deadlines for Compliance or Reporting
- ☐ Consolidation or Simplification of Reporting Requirements
- ☐ Establishment of performance standards in lieu of Design or Operational Standards
- ☐ Exemption of Small Businesses from some or all requirements
- ☐ Other, describe:

EXISTING ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

10. Fund Sources Affected

☐ GPR ☒ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

11. Chapter 20, Stats. Appropriations Affected
20.115(1)(q)

12. Fiscal Effect of Repealing or Modifying the Rule

☐ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☒ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

13. Summary of Costs and Benefits of Repealing or Modifying the Rule

The rule amendments will make the rules consistent with the newly enacted legislation and update and modernize existing requirements with respect to the claim benefit filing procedure and work search and work registration requirements. These rule changes will strengthen the requirements for unemployed individuals to actively seek employment and thereby improve their employment prospects and align the job search requirements with the underlying goal of the unemployment insurance program. The amendments accomplish this by:

- Providing explicit authority for DWD to require unemployment insurance claimants to provide information to DWD to facilitate their reemployment efforts;
- Updating what actions by claimants will be considered to constitute a reasonable search for suitable work;
- Decreasing the circumstances in which DWD will waive the requirement that claimants to receive unemployment insurance benefits must perform work search actions;
- Narrowing and fine-tuning the remaining circumstances under which DWD will waive the work search requirement for claimants; and,
- Enhancing the procedures required to file claims for benefits in order to facilitate the ability of DWD to assist claimants find employment.

14. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes ☒ No

15. Long Range Implications of Repealing or Modifying the Rule

These rule amendments will have a positive economic impact. The increase in the requirement for work search activities will likely decrease charges to the Unemployment Insurance Trust Fund due to individuals obtaining employment sooner or being disqualified from receiving unemployment insurance benefits for not actively seeking work. This will have a positive economic impact on employers, due to fewer charges to employers' unemployment insurance accounts. As a result, employers will be charged a lower rate of unemployment insurance tax. In addition, claimants who are regularly collecting a paycheck rather than an unemployment compensation check will contribute more economically within their community.

16. Compare With Approaches Being Used by Federal Government

The unemployment insurance program was initiated on a national basis in the United States as Title III and Title IX of the Social Security Act of 1935 and is a Federal-State coordinated program. Each state administers its own program within national guidelines promulgated under federal law. As a condition of a state receiving its unemployment compensation administrative grant, 42 USC s. 503 (a) provides that the Secretary of Labor must find that the law of each state includes certain requirements. Specifically, 42 USC s. 503 (a) (12) provides that state laws must have as a condition of eligibility for unemployment insurance that claimants must be able to work, available to work, and actively seeking work. Moreover, 42 USC s. 503 (a) (10) provides that state laws must require that if claimants have been referred for reemployment services or similar services, to remain eligible for unemployment insurance benefits claimants shall complete such services or there must be justifiable cause for claimants failing to participate in such services.

EXISTING ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

17. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

As the Department of Labor's Comparison of State UI Laws states: "[i]n addition to registration for work at a local employment office, all states... , whether by law or practice, require that a worker be actively seeking work or making a reasonable effort to obtain work." The amendments to the rules bring Wisconsin's policies more in line with neighboring states' initiatives to facilitate unemployment insurance claimants' ability to find employment.

Benefit Claiming Procedure

- **Illinois**

Each claimant shall file his or her claim by telephone. The only exception is if the claimant files his or her claim by mail. To file a claim by mail the claimant must: speak neither English nor Spanish; be hearing impaired; or have no reasonable access to a touch-tone telephone. (56 Il. Adm. Code 2720.112)

- **Iowa**

An individual may file an initial claim for unemployment benefits by telephone, in person or other means prescribed by the department or may call the service center during regular business hours. Claims filed in accordance with this rule shall be deemed filed as of Sunday of the week in which the claim is filed, but a claimant must register for work at a workforce development center. (IA 871-24.2 (96) Administrative Code)

- **Michigan**

Claims for benefits shall be made pursuant to regulations prescribed by the unemployment insurance agency. The unemployment insurance agency shall designate representatives who shall promptly examine claims and make a determination on the facts. (M.C.L.A. 421.32)

An individual shall file a new, additional, or reopened claim or shall report to file a continued claim as directed by the agency. (Mich. Admin. Code R. 421.210 (3))

- **Minnesota**

An application for unemployment insurance benefits may be filed in person, by mail, or by electronic transmission as the unemployment insurance agency may require. (M.S.A. s. 268.07 Statutes Annotated)

The unemployment insurance agency shall notify the claimant of the method that should be used to make ongoing claims for benefits. The first method is through electronic transmission which means the claims may be filed by electronic mail address, telephone number, or Internet address prescribed by the commissioner for that claimant. The other method that the unemployment insurance agency may designate for the claimant is for the claim to be filed by mail. (M.S.A. s. 268.0865 Statutes Annotated)

EXISTING ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

Work Search Requirements

- **Illinois**

Unless otherwise instructed, a claimant must establish that he or she is able to work, available for work and actively seeking work during each week for which he or she is claiming benefits. The claimant must show that he or she is conducting a thorough, active and reasonable search for appropriate work on his or her own by keeping records of what he or she is doing to find work. (56 Il. Adm. Code 2865.100)

- **Iowa**

The Iowa law specifies that an individual must earnestly and actively seek work. This is interpreted to mean that a registration for work at a workforce development center or state employment service office in itself does not meet the requirements of the law. Nor is it interpreted to mean that every individual must make a fixed number of employer contacts each week to establish eligibility. The number of contacts that an individual must make is dependent upon the condition of the local labor market, the duration of benefit payments, a change in claimant characteristics, job prospects in the community, and such other factors as the department deems relevant. (IA 871-24.22 (96) f. Administrative Code)

- **Michigan**

The claimant has registered for work and has continued to report in accordance with unemployment agency rules and is actively engaged in seeking work. Except for a period of disqualification, the requirement that the claimant shall seek work may be waived by the unemployment insurance agency if it finds that suitable work is unavailable both in the locality where the individual resides and in those localities in which the individual has earned wages during or after the base period. An otherwise eligible individual shall not be ineligible for benefits because he or she is participating in training with the approval of the unemployment agency. (M.C.L.A. 421.28)

- **Minnesota**

An applicant may be eligible to receive unemployment benefits for any week if the applicant was actively seeking suitable employment. "Actively seeking suitable employment" means those reasonable, diligent efforts an individual in similar circumstances would make if genuinely interested in obtaining suitable employment under the existing conditions in the labor market area. Limiting the search to positions that are not available or are above the applicant's training, experience, and qualifications is not "actively seeking suitable employment." (M.S.A. s. 268.085 Statutes Annotated)

Registration for Work Requirements

- **Illinois**

A claimant must register with the Illinois Employment Service unless otherwise instructed by the local office. There are ten circumstances in which a claimant will not be required to register with the Illinois Employment Service. (56 Il. Adm. Code 2865.100)

An unemployed individual shall be eligible to receive benefits with respect to any week only if he or she has registered

EXISTING ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

for work at and thereafter, continues to report at an employment office in accordance with such regulations as may be prescribed. (820 ILCS 405/500 Compiled Statutes)

- Iowa

Unemployed persons must report in person to the nearest workforce development center and register for work. (IA 871-24.2 (96) Administrative Code)

An unemployed individual is eligible to receive benefits with respect to any week only if the department finds that the individual has registered for work at, and thereafter, continues to report to an employment office in accordance with regulations as the department prescribes. (I.C.A. s. 96.4 Code)

- Michigan

A claimant shall register for work as instructed by the agency and fully and accurately supply information as to the claimant's past work experience and training and other personal data as may be necessary to assure that the claimant is considered for referral to any available suitable work. (Mich. Admin. Code R. 421.208)

Unemployed workers must register and create a profile on www.mitalenet.org and report in person to verify their registration to any Michigan Works! Agency Service Center no later than three (3) business days before their first contact to file a claim. Claimants must retain verification form as proof of registration of work for one year. (Fact sheet #76 Work Registration Needed for Jobless Benefits)

- Minnesota

An applicant may be eligible to receive unemployment insurance benefits for any week if the applicant was available for suitable employment. (M.S.A. s. 268.085 Statutes Annotated)

18. Contact Name	19. Contact Phone Number
Janell Knutson	608/266-1639

This document can be made available in alternate formats to individuals with disabilities upon request.